IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21/08/2002

CORAM

THE HON'BLE MR.JUSTICE P.K. MISRA

WRIT PETITION No.10336 of 2002
and
W.P.M.P.No.13977 of 2002

K. Karthika ... Petitioner

-Vs-

1. State of Tamil Nadu,
its Secretary to Government,
Health & Family Welfare Department,
Secretariat, Chennai.9.

2. The Secretary,
M.B.B.S. Selection Committee,
162, Periya E.V.R. High Road,]
Kilpauk, Chennai.10. ... Respondents

Writ Petition under Article 226 of the Constitution of India filed for issue of writ of Mandamus as stated therein.

For Petitioner : Mr.C.Selvaraju

For Respondents : Mr.V.R.Rajasekar

:O R D E R
By consent, the writ petition itself is taken up for final disposal.

2. Heard the Counsel appearing for the parties. The petitioner in the present case, on the basis of a common Entrance Examination and the marks secured in her Plus 2 Examination, was called for counselling for the purpose of admission to M.B.B.S. Course for the academic year commencing from 2001-2002. Initially, she was offered a Government quota seat available in Vinayaka Mission Medical College at Salem. The petitioner, however, forgoing the aforesaid privilege, preferred to take admission in P.S.G. Medical College at Coimbatore under payment quota, obviously because she thought that the standard of the latter Medical College is better than the former Medical College. The grievance of the petitioner is that subsequently, three other candidates, who joined the very same P.S.G. Medical College, Coimbatore, on

payment category, were accommodated in Government Colleges where they are not required to make payment of higher fees. The petitioner therefore prayed that she should also be accommodated in Government Medical College under free seat quota, as she had secured more marks than the said three candidates concerned.

3. A counter affidavit has been filed on behalf of the respondents, namely, the State Government and the Secretary of the Selection Committee, wherein, it is indicated that the other three candidates, even though had secured less marks than the petitioner, have been accommodated in the free seat quota in the Government Colleges as per the decision of the Full Bench reported in Minor S. Muthu Senthil v. State of Tamil Nadu, etc. & Others (2002 Writ L.R. 155).

4. The learned Counsel appearing for the petitioner has strenuously contended that in fact, the persons who have been accommodated in free seats in the Government Colleges not because of the Full Bench decision, but by illegally ignoring the case of the petitioner. He has submitted that as per the direction of the Full Bench, the Government has not written any letter to the Medical Council seeking for creation of additional seats to accommodate persons admitted against reserved category and on the other hand, the persons concerned have been accommodated against the other normal vacancies, out of which, one seat, in the normal course, should have been offered to the petitioner, as she had secured more marks.

5. It has to be noticed that the admission of those three students against free seat quota in Government Colleges, have not been challenged as such and they have not been impleaded as parties to the writ petition. Therefore, even assuming that those persons had been illegally admitted against free seat quota in Government Colleges, at this stage, it is not possible to quash their admissions in order to accommodate the present petitioner.

6. In the counter affidavit, it has been stated that no further vacancies are available and all the eleven seats which were available at the time of the disposal of the decision of the Full Bench have already been filled up. Even assuming, according to the submission of the learned Counsel for the petitioner, that the action of the Government in accommodating the students against free seats , cannot be said to be in compliance with the direction of the Full Bench, such a stand is not going to help the present petitioner as the admission of those students cannot be called in question without impleading them.

7. The next question is whether the petitioner can be accommodated against any other vacancy available. In the counter affidavit, it has been stated that there is no other vacancy available. In such view of the matter, it is not possible to give a direction to transfer the petitioner to any Government Medical College. However, it is made clear that in case any vacancy would arise in any Medical College in the free seat category including in any Government Medical College, it would be open to the petitioner to file appropriate application to the Government as well as to the concerned University for being transferred to such a Medical College and for being

adjusted against a free seat for the subsequent years and such application should be considered notwithstanding the fact that the petitioner would be seeking a transfer from the payment seat to the free seat in a different College under a different University.

8. Subject to the above, this writ petition is disposed of. Consequently, W.P.M.P.No.13977 of 2002 is closed.

21.08.2002
Index:Yes
Internet:Yes

P.K. MISRA, J.

To
1. The Secretary to the Government of Tamil Nadu,
Health & Family Welfare Department,
Secretariat, Chennai.9.

2. The Secretary, M.B.B.S. Selection Committee,
162, Periya E.V.R. High Road, Kilpauk, Chennai.10.
sml.

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and
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